

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

AMBOY BANCORPORATION, a New Jersey
Corporation,

Plaintiff,

vs.

JENKENS & GILCHRIST a Professional
Corporation; and THE BANK ADVISORY
GROUP, INC., a Texas Corporation,

Defendants.

CIVIL ACTION No. 02-5410 (DMC)

Hon. Dennis M. Cavanaugh, U.S.D.J.

NOTICE OF MOTION FOR AN ORDER IN
LIMINE TO EXCLUDE TESTIMONY BY
PLAINTIFF'S EXPERT STEVE THEL
CONCERNING ALLEGED DAMAGES AND
FOR PARTIAL SUMMARY JUDGMENT
WITH RESPECT TO DAMAGES

ORAL ARGUMENT REQUESTED

RETURN DATE: MAY 5, 2008

TO: DENNIS T. KEARNEY, ESQUIRE
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Attorneys for Defendant
The Bank Advisory Group

PLEASE TAKE NOTICE that McElroy, Deutsch, Mulvaney & Carpenter, LLP, counsel for defendant, Jenkins & Gilchrist, P.C. ("Jenkins & Gilchrist"), shall move before the Honorable Dennis M. Cavanaugh, on May 5, 2008 beginning at 9:00 a.m. at the U.S. Post Office & Courthouse Building, Newark, New Jersey for an order:

- (1) *in limine* to exclude testimony by plaintiff's expert Steve Thel that in his opinion under New Jersey law Amboy's squeezed-out shareholders (other than the one who

qualified as a statutory dissenter under N.J.S.A. 14A:11-1 et seq) would not have had a right to receive fair value for their shares in the absence of a misleading proxy statement

- (2) granting partial summary judgment dismissing Amboy's damage claim seeking recovery of the additional amount of \$41 per share that it was required to pay its former shareholders.

In support of this motion, Jenkins & Gilchrist shall rely on the arguments contained in its brief in support of this motion, its statement of material facts as to which no genuine issue exists pursuant to L. Civ. R. 56.1, and the Declaration of James G. Gardner, Esq. submitted herewith.

Oral argument is hereby requested.

Respectfully submitted,

McELROY, DEUTSCH, MULVANEY &
CARPENTER, LLP
Attorneys for Defendant,
Jenkins & Gilchrist, P.C.

By: Edward B. Deutsch
Edward B. Deutsch, Esq.

DATED: April 11, 2008

OF COUNSEL:

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